

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE APRIL 30, 2003

SENATE BILL

No. 429

Introduced by Senator ~~Morrow~~ Torlakson

(Principal coauthor: Assembly Member Richman)

(Coauthors: Senators Alpert, Cedillo, Denham, Ducheny, and McPherson)

(Coauthors: Assembly Members Aghazarian, Benoit, Bermudez, Campbell, Canciamilla, Chavez, Firebaugh, Shirley Horton, Houston, Matthews, Oropeza, Parra, and Wyland)

February 20, 2003

~~An act to add Section 854.5 to the Public Utilities Code, relating to public utilities. An act to add and repeal Section 12079 of the Government Code, to amend Section 42321 of, and to add and repeal Section 42322.7 of, the Health and Safety Code, and to add and repeal Chapter 6.7 (commencing with Section 25580) of Division 15 of the Public Resources Code, relating to public resources.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 429, as amended, ~~Morrow~~ Torlakson. ~~Public utilities: acquisition or control~~ Energy resources: petroleum infrastructure projects: permits: process.

(1) Existing law requires the State Energy Resources Conservation and Development Commission to report to the Governor and the Legislature regarding the state's petroleum supply and pricing.

This bill would require the Governor to appoint, until January 1, 2010, a statewide petroleum infrastructure facilitator in the commission to investigate and intervene in rulemaking, permitting, and other

proceedings by state agencies that affect petroleum infrastructure projects in the state, and to suggest best practices and procedures for permit streamlining.

The bill would require all state agencies, not more than 90 days after the Governor appoints the statewide petroleum infrastructure facilitator, to (1) identify and list all permits required by the agency for petroleum infrastructure projects and related facilities in the state; (2) describe all current procedures utilized in practice for streamlining and expediting permitting for petroleum infrastructure projects; and (3) identify and list all laws, rules, regulations, policies, guidelines, and permit conditions that inhibit or restrain petroleum infrastructure prospects.

The bill would require the statewide petroleum infrastructure facilitator, not more than 120 days after appointment, to (1) compile and, upon request, make available to persons proposing to modify, construct, or operate petroleum infrastructure projects, all available guidance documents and other information on permitting petroleum infrastructure projects; (2) upon request of applicants, provide permitting assistance to persons proposing to modify, construct, or operate petroleum infrastructure projects, including assistance in working with local governments in ensuring that local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection; and (3) upon request of applicants, intervene and participate as a party in rulemaking, permitting, and other proceedings by a state agency that affect petroleum infrastructure projects, to streamline the process, preserve existing petroleum infrastructure efficiencies and capacity, and increase petroleum infrastructure efficiencies and capacity.

The bill would require the State Air Resources Board (state board), on or before February 1, 2005, and until January 1, 2010, to consult with the California Air Pollution Control Officers Association, the California Environmental Protection Agency, the Resources Agency, the State Energy Resources Conservation and Development Commission, the United States Environmental Protection Agency, other states, public and private regulated entities, and other interested persons regarding successful methods and best practices for streamlining air quality permits and other permits that may be required for petroleum infrastructure projects.



The bill would require the state board, on or before March 1, 2005, to identify permit streamlining practices, including successful practices implemented by the districts under certain provisions of existing law, and adopt a complete list of permit streamlining techniques, including specified provisions, procedures, and requirements. The bill would require the state board to require the districts to adopt, no later than May 1, 2005, and implement, no later than July 1, 2005, the permit provisions and procedures identified by the state board, thereby imposing a state-mandated local program by imposing new duties upon local air districts.

The bill would require the commission, on or before February 1, 2005, and until January 1, 2010, to initiate consultations with the statewide petroleum infrastructure facilitator, the California Environmental Protection Agency, the Resources Agency, the United States Environmental Protection Agency, other states, air districts, public and private regulated entities, California ports, and other interested persons, regarding successful methods and best practices for streamlining permits, leases, and other governmental authorizations and entitlements that may be required by petroleum infrastructure projects. The bill would require the consultation to include a complete report of agencies' and the regulated entities' experiences with facility siting conducted by the commission, similar processes in other states, and similar processes in this state.

The bill would require the commission, on or before March 30, 2005, to identify permit streamlining practices, including successful practices implemented by the State Air Resources Board under the provisions of the bill described above, and to publish for public comment a complete list of permit streamlining techniques for petroleum infrastructure projects, including certain, specific techniques.

The bill would require the commission, on or before May 1, 2005, to submit a report to the Governor and the Legislature describing the results of the consultation and the specified list, together with detailed recommendations for establishing new, streamlined processes for permitting petroleum infrastructure projects in California in a manner that accomplishes certain requirements.

The bill would permit the Governor, or one or more officials designated by the Governor, to identify existing or proposed regulations and other requirements, and would require a member of the commission to review those requirements to determine if they meet specified criteria. The bill would prohibit a state or local agency from adopting or



maintaining a requirement found not to meet the specified criteria, unless the state or local agency makes a specified finding, thereby imposing a state-mandated local program by imposing new requirements upon local agencies.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. The Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities.~~

~~The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, without first securing authorization to do so from the commission. Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority. The act prohibits a public utility from issuing stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes, or other evidences of indebtedness payable at periods of more than 12 months, without first securing authorization to do so from the commission.~~



~~Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain public utilities. The commission has conditioned authorization upon the capital requirements of the utility being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve.~~

~~This bill would authorize the commission to enforce any condition agreed to by a public utility as part of an application to merge, acquire, or control a public utility or an application to issue stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes, or other evidence of indebtedness. The power to enforce would apply to the utility and the corporation or person holding a controlling interest in the utility. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that it be a condition that the capital requirements of the utility necessary to meet the utility's obligation to serve be given first priority. The bill would declare that these provisions state existing law.~~

~~The bill would require the commission to order the corporation or person holding a controlling interest to infuse sufficient capital into the utility to enable it to fulfill its obligation to serve. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that a balanced capital structure be maintained in the utility and that retained earnings not be transferred to the controlling corporation or person where doing so would decrease the utility's net equity below that adopted by the commission in the utility's last general rate proceeding. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that any dividend policy of the utility be set by the utility's board of directors as though the utility is a stand-alone electrical or gas corporation. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

~~SECTION 1. — Section 854.5 is added to the Public Utilities~~

*SECTION 1. This act shall be known, and may be cited, as the
Petroleum Infrastructure Reliability Act of 2004.*

*SEC. 2. The Legislature hereby finds and declares all of the
following:*

*(a) California's supply of transportation fuel is not keeping
pace with growing demand.*

*(b) California consumers desire to use the cleanest available
transportation fuels. California has been a pioneer in the
development of cleaner burning gasoline and other cleaner
burning transportation fuels.*

*(c) In the past two decades, the number of petroleum refineries
in California and the nation has declined, and no new refineries
are anticipated in California.*

*(d) It is becoming more difficult for California refiners to
improve reliability, improve efficiency, and make incremental
capacity increases to meet demand growth for cleaner burning
transportation fuels. Imports of finished cleaner burning
transportation fuels and blending stocks are now critical to
balancing supply and demand in California.*

*(e) Ports, marine terminals, refineries, pipelines, terminals,
and other elements of the California petroleum infrastructure are
proving to be inadequate for producing and handling increased
volumes of cleaner burning transportation fuels.*

*(f) California faces potentially serious transportation fuel
imbalances over the next several years, which necessitate
immediate action by the state on a statewide basis.*

*(g) The purpose of this act is to respond to the problems facing
the state by promoting incremental investments in new, more
reliable, more efficient, and environmentally superior components
of the California petroleum infrastructure, and to assist persons
proposing to construct and operate petroleum infrastructure
facilities, without in any manner compromising environmental
protection.*

1 SEC. 3. Section 12079 is added to the Government Code, to
2 read:

3 12079. (a) The Governor shall appoint a statewide
4 petroleum infrastructure facilitator in the State Energy Resources
5 Conservation and Development Commission to investigate and
6 intervene in rulemaking, permitting, and other proceedings by
7 state agencies that affect petroleum infrastructure projects in the
8 state, and to suggest best practices and procedures for permit
9 streamlining.

10 (b) The Governor may authorize and direct the chair of the
11 State Energy Resources Conservation and Development
12 Commission to designate individual members of the commission
13 to investigate and intervene in agency rulemaking, permitting, and
14 other proceedings affecting petroleum infrastructure projects in
15 the state and to suggest best practices and procedures for permit
16 streamlining.

17 (c) Not more than 90 days after the Governor appoints a
18 statewide petroleum infrastructure facilitator pursuant to
19 subdivision (a), all state agencies shall do all of the following:

20 (1) Identify and list all permits required by the agency for
21 petroleum infrastructure projects and related facilities in the state.

22 (2) Describe all current procedures utilized in practice for
23 streamlining and expediting permitting for petroleum
24 infrastructure projects.

25 (3) Identify and list all laws, rules, regulations, policies,
26 guidelines, and permit conditions that inhibit or restrain
27 petroleum infrastructure prospects.

28 (d) Not more than 120 days after appointment pursuant to
29 subdivision (a), the statewide petroleum infrastructure facilitator
30 shall do all of the following:

31 (1) Compile and, upon request, make available to persons
32 proposing to modify, construct, or operate petroleum
33 infrastructure projects, all available guidance documents and
34 other information on permitting petroleum infrastructure projects.

35 (2) Upon request of applicants, provide permitting assistance
36 to persons proposing to modify, construct, or operate petroleum
37 infrastructure projects, including, but not limited to, assistance in
38 working with local governments in ensuring that local permits,
39 land use authorizations, and other approvals made at the local
40 level are undertaken in the most expeditious manner feasible

1 *without compromising public participation or environmental*
2 *protection.*

3 *(3) Upon request of applicants, intervene and participate as a*
4 *party in rulemaking, permitting, and other proceedings by a state*
5 *agency that affect petroleum infrastructure projects, to streamline*
6 *the process, to preserve existing petroleum infrastructure*
7 *efficiencies and capacity, and to increase petroleum infrastructure*
8 *efficiencies and capacity.*

9 *(e) The statewide petroleum infrastructure facilitator shall*
10 *work with the Legislature to introduce and enact legislation as*
11 *expeditiously as possible to streamline and expedite permitting for*
12 *petroleum infrastructure projects in the state.*

13 *(f) In carrying out the duties imposed pursuant to this section,*
14 *the statewide petroleum infrastructure facilitator shall consult*
15 *with all of the following:*

16 *(1) The Chair of the State Energy Resources Conservation and*
17 *Development Commission.*

18 *(2) The Chair of the State Air Resources Board.*

19 *(3) The Secretary for Environmental Protection.*

20 *(4) The Secretary of the Resources Agency.*

21 *(5) The Director of the Governor's Office of Planning and*
22 *Research.*

23 *(6) Representatives from the United States Environmental*
24 *Protection Agency, the United States Department of Energy, the*
25 *United States Department of the Interior, and other affected*
26 *federal agencies, as appropriate.*

27 *(7) Representatives of local and regional agencies, including,*
28 *but not limited to, air pollution control districts and air quality*
29 *management districts.*

30 *(g) This section shall remain in effect only until January 1,*
31 *2010, and as of that date is repealed, unless a later enacted statute*
32 *that is enacted before January 1, 2010 deletes or extends that date.*

33 *SEC. 4. Section 42321 of the Health and Safety Code is*
34 *amended to read:*

35 *42321. The Legislature hereby finds and declares as follows*
36 *all of the following:*

37 *(a) California's air pollution control programs have been*
38 *among the most successful efforts in the country to reduce air*
39 *pollution and to protect public health and the environment.*

(b) It is in the interest of the people of the state, particularly during times of economic difficulty, to enact laws ~~which~~ that improve the processes by which businesses comply with environmental and air quality laws, without sacrificing the protection of public health and the environment.

(c) The purpose of this article is to ~~require~~ *do both of the following:*

(1) *Require districts to review their permit programs and to institute new, efficient procedures ~~which~~ that will assist businesses in complying with regional, state, and federal air quality laws in an expedited fashion, without reducing protection of public health and the environment.*

(2) *Require the state board to assist applicants and districts in identifying and instituting new, efficient procedures to assist applicants for permits for petroleum infrastructure projects in complying with regional, state, and federal air quality laws in an expedited fashion, for the purpose of preserving the efficiencies and capacity of existing petroleum infrastructure and increasing the efficiencies and capacity of the petroleum infrastructure, without reducing protection of public health and the environment.*

SEC. 5. *Section 42322.7 is added to the Health and Safety Code, to read:*

42322.7. (a) *On or before February 1, 2005, the state board shall consult with the California Air Pollution Control Officers Association, the California Environmental Protection Agency, the Resources Agency, the State Energy Resources Conservation and Development Commission, the United States Environmental Protection Agency, other states, public and private regulated entities, and other interested persons regarding successful methods and best practices for streamlining air quality permits and other permits that may be required for petroleum infrastructure projects.*

(b) *On or before March 1, 2005, the state board shall identify permit streamlining practices, including, but not limited to, successful practices implemented by the districts as directed by Sections 42322 and 42322.5, and shall adopt a complete list of permit streamlining techniques, including, but not limited to, all of the following:*

(1) *Provisions for same-day permit issuance for qualified petroleum infrastructure projects.*

1 (2) Streamlined procedures for hiring and relying on certified
2 permit application reviewers for petroleum infrastructure projects.

3 (3) Requiring that the districts determine whether an
4 application for a petroleum infrastructure project is complete, not
5 more than 15 days after receiving the application.

6 (4) Review, avoidance, and deletion of involuntary limitations
7 on the throughput of any components of the state petroleum
8 infrastructure.

9 (c) The state board shall require the districts to adopt, no later
10 than May 1, 2005, and implement, no later than July 1, 2005, the
11 permit provisions and procedures identified by the state board
12 under subdivision (b).

13 (d) The state board shall continuously identify permit
14 streamlining practices to preserve the efficiencies and capacity of
15 existing petroleum infrastructure and to increase the efficiencies
16 and capacity of petroleum infrastructure in the state, and shall
17 require the districts to adopt and implement all other best practices
18 identified by the state board on an expeditious basis.

19 (e) The state board may waive the requirement for a district to
20 implement a best practice if the district can demonstrate both of the
21 following:

22 (1) That its existing district program performs at least as
23 effectively as a streamlining practice identified under subdivision
24 (b) or (d).

25 (2) That the district program has, in actual practice, resulted
26 in simplifying and expediting permitting for petroleum
27 infrastructure projects.

28 (f) The state board shall revise its best practices list after
29 holding a public meeting, and the districts shall adopt the revised
30 practices at least annually.

31 (g) This section shall remain in effect only until January 1,
32 2010, and as of that date is repealed, unless a later enacted statute
33 that is enacted before January 1, 2010 deletes or extends that date.

34 SEC. 6. Chapter 6.7 (commencing with Section 25580) is
35 added to Division 15 of the Public Resources Code, to read:

36
37 CHAPTER 6.7. PETROLEUM INFRASTRUCTURE PROJECTS
38

39 25580. For the purposes of this chapter, “petroleum
40 infrastructure projects” include marine terminals, port facilities,

1 *product storage facilities, pipelines, land terminals, refinery*
2 *projects, and related kinds of facilities identified by the*
3 *commission as being necessary to assure a consistent and reliable*
4 *supply of cleaner burning gasoline, ultra low sulfur diesel fuel, and*
5 *other petroleum products to California consumers.*

6 25582. *The Legislature hereby finds and declares all of the*
7 *following:*

8 (a) *California is making increasing and new demands for*
9 *petroleum products, including demands for alternative and*
10 *cleaner burning transportation fuels.*

11 (b) *It is in the best interests of the people of the state to enact*
12 *laws that improve the processes by which California fuel producers*
13 *and importers comply with environmental, land use, and siting*
14 *laws, without sacrificing the protection of public health and the*
15 *environment.*

16 (c) *Certain projects are vital to ensuring the reliability, to*
17 *preserving the existing efficiencies and capacity, and to increasing*
18 *the efficiencies and capacity of state ports, refineries, terminals,*
19 *pipelines, and other petroleum infrastructure facilities. It is in the*
20 *best interests of the people of the state to streamline permitting for*
21 *petroleum infrastructure projects to preserve and increase the*
22 *efficiencies and capacity of the California petroleum*
23 *infrastructure.*

24 (d) *Rules, regulations, policies, guidelines, and permit*
25 *conditions adopted by local, regional, and state regulatory*
26 *agencies may significantly impair the ability of petroleum*
27 *infrastructure facilities to produce a consistent and reliable supply*
28 *of cleaner burning gasoline and other products for California*
29 *consumers.*

30 (e) *It is in the best interests of the people of the state for the*
31 *commission to review regulations to ensure continued, consistent,*
32 *and reliable operation of California petroleum infrastructure*
33 *facilities and reduce the need for California to import gasoline.*

34 25584. (a) *On or before February 1, 2005, the commission*
35 *shall initiate consultations with the facilitator appointed pursuant*
36 *to subdivision (a) of Section 12079 of the Government Code, the*
37 *California Environmental Protection Agency, the Resources*
38 *Agency, the United States Environmental Protection Agency, other*
39 *states, air districts, public and private regulated entities,*
40 *California ports, and other interested persons, regarding*

1 *successful methods and best practices for streamlining permits,*
2 *leases, and other governmental authorizations and entitlements*
3 *that may be required by petroleum infrastructure projects.*

4 *(b) The consultation required pursuant to subdivision (a) shall*
5 *include a complete report of agencies' and the regulated entities'*
6 *experiences with facility siting conducted by the commission,*
7 *similar processes in other states, and similar processes in this*
8 *state.*

9 *(c) On or before March 30, 2005, the commission shall identify*
10 *permit streamlining practices, including, but not limited to,*
11 *successful practices implemented by the State Air Resources Board*
12 *under Section 42322.7 of the Health and Safety Code, and shall*
13 *publish for public comment a complete list of permit streamlining*
14 *techniques for petroleum infrastructure projects, including, but*
15 *not limited to, all of the following:*

16 *(1) Developing and implementing partially or fully*
17 *consolidated permit programs for petroleum infrastructure*
18 *projects.*

19 *(2) Adopting criteria for the types of permitting actions for*
20 *petroleum infrastructure projects eligible for streamlining and for*
21 *a simplified permitting process.*

22 *(3) Adopting streamlined lists and criteria for application*
23 *completeness determinations for petroleum infrastructure*
24 *projects.*

25 *(4) Adopting mandatory deadlines for actions on permits for*
26 *petroleum infrastructure projects, similar to those enforceable by*
27 *appeal under Section 42302 of the Health and Safety Code.*

28 *(5) Avoiding and eliminating limitations on the throughput of*
29 *components of the California petroleum infrastructure.*

30 *(6) Relying on actual emissions performance standards that*
31 *allow the maximum flexibility in utilizing existing efficiencies and*
32 *capacity and increasing efficiencies and capacity of the California*
33 *petroleum infrastructure.*

34 *(d) On or before May 1, 2005, the commission shall submit a*
35 *report to the Governor and the Legislature describing the results*
36 *of the consultation pursuant to this section and the list published*
37 *pursuant to subdivision (c), together with detailed*
38 *recommendations for establishing new, streamlined processes for*
39 *permitting petroleum infrastructure projects in California in a*
40 *manner that meets all of the following criteria:*

1 (1) Requires a permit that is exempt from review under the
2 California Environmental Quality Act (Division 13 (commencing
3 with Section 21000)), or for which review is satisfied by a negative
4 declaration or a mitigated negative declaration, to be issued not
5 more than 60 days after the application is deemed complete.

6 (2) Requires a partly or completely consolidated permit to be
7 issued not more than 180 days after the application is determined
8 or deemed complete.

9 (3) Requires a local, regional, state or federal permit or other
10 governmental authorization excluded from a consolidated permit
11 process to be expedited by the permitting authority.

12 (4) Requires lists and criteria for determining application
13 completeness to include only information that significantly
14 enables the permitting authorities to initiate permit processing.

15 (5) Requires the permitting process to avoid and reduce
16 vulnerabilities and gaps in the California petroleum
17 infrastructure, preserve the efficiencies and capacity of existing
18 petroleum infrastructure, and increase the efficiencies and
19 capacity of the California petroleum infrastructure.

20 (6) Allows additional investments to be made to preserve and
21 increase the capacity, efficiencies, reliability, and environmental
22 performance of the California petroleum infrastructure.

23 25586. (a) The Governor, or one or more officials designated
24 by the Governor, may identify existing or proposed rules,
25 regulations, plans, policies, guidelines, permit conditions, or
26 other requirements affecting petroleum infrastructure facilities
27 and refer them to the commission for review in accordance with the
28 criteria in subdivision (d) of Section 22584.

29 (b) The chair of the commission shall designate a single
30 commissioner to review requirements affecting petroleum
31 infrastructure facilities that are referred under subdivision (a).

32 (c) The designated commissioner shall promptly review and
33 issue findings on whether referred requirements meet the criteria
34 in subdivision (d) of Section 25584.

35 (d) A state or local agency may not adopt or maintain in effect
36 any requirement reviewed pursuant to this section that is found to
37 not meet the criteria in subdivision (d) of Section 25584, unless the
38 state or local agency addresses each finding made by the
39 designated commissioner pursuant to subdivision (c), and finds

1 *that specific considerations override the criteria in subdivision (d)*
2 *of Section 25584.*

3 *25588. (a) In taking any action under this chapter, the*
4 *commission may adopt rules and regulations as necessary to*
5 *ensure that relevant duties pursuant to this chapter are carried out.*

6 *(b) To implement this section, the commission may adopt*
7 *emergency regulations in accordance with Chapter 3.5*
8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
9 *2 of the Government Code. For purposes of that chapter, including,*
10 *but not limited to, Section 11349.6 of the Government Code, the*
11 *adoption of the regulations shall be considered by the Office of*
12 *Administrative Law to be necessary for the immediate*
13 *preservation of the public peace, health, safety, and general*
14 *welfare.*

15 *25590. This chapter shall remain in effect only until January*
16 *1, 2010, and as of that date is repealed, unless a later enacted*
17 *statute that is enacted before January 1, 2010, deletes or extends*
18 *that date.*

19 *SEC. 7. No reimbursement is required by this act pursuant to*
20 *Section 6 of Article XIII B of the California Constitution for*
21 *certain costs that may be incurred by a local agency or school*
22 *district because a local agency or school district has the authority*
23 *to levy service charges, fees, or assessments sufficient to pay for the*
24 *program or level of service mandated by this act, within the*
25 *meaning of Section 17556 of the Government Code.*

26 *However, notwithstanding Section 17610 of the Government*
27 *Code, if the Commission on State Mandates determines that this*
28 *act contains other costs mandated by the state, reimbursement to*
29 *local agencies and school districts for those costs shall be made*
30 *pursuant to Part 7 (commencing with Section 17500) of Division*
31 *4 of Title 2 of the Government Code. If the statewide cost of the*
32 *claim for reimbursement does not exceed one million dollars*
33 *(\$1,000,000), reimbursement shall be made from the State*
34 *Mandates Claims Fund.*

35 ~~*Code, to read:*~~

36 ~~*854.5. (a) The commission may enforce any condition*~~
37 ~~*agreed to by a public utility as part of an application to merge,*~~
38 ~~*acquire, or control either directly or indirectly any public utility*~~
39 ~~*organized and doing business in this state, pursuant to Section 854.*~~

1 ~~(b) The commission may enforce any condition agreed to by a~~
2 ~~public utility as part of an application to issue stocks and stock~~
3 ~~certificates, or other evidence of interest or ownership, or bonds,~~
4 ~~notes, or other evidences of indebtedness, pursuant to Section 818.~~

5 ~~(c) The commission's power to enforce under this section~~
6 ~~applies to the public utility and any corporation or person holding~~
7 ~~a controlling interest in the public utility.~~

8 ~~(d) Whenever the commission authorizes a corporation or~~
9 ~~person to hold a controlling interest in an electrical corporation or~~
10 ~~gas corporation, a condition of that authorization is that the capital~~
11 ~~requirements of the electrical corporation or gas corporation, as~~
12 ~~determined by the commission to be necessary to meet the public~~
13 ~~utility's obligation to serve, shall be given first priority.~~

14 ~~(e) The commission shall order a corporation or person holding~~
15 ~~a controlling interest in an electrical corporation or gas corporation~~
16 ~~to infuse sufficient capital into the public utility, of any type and~~
17 ~~quantity deemed necessary by the commission, to enable the~~
18 ~~public utility to fulfill its obligation to serve.~~

19 ~~(f) Whenever the commission authorizes a corporation or~~
20 ~~person to hold a controlling interest in an electrical corporation or~~
21 ~~gas corporation, a condition of that authorization is that the~~
22 ~~corporation or person maintain a balanced capital structure in the~~
23 ~~public utility, as determined to be reasonable by the commission~~
24 ~~in the public utility's most recent general rate case. No electrical~~
25 ~~corporation or gas corporation shall permit retained earnings to be~~
26 ~~transferred to a corporation or person holding a controlling interest~~
27 ~~in the public utility where doing so would decrease the public~~
28 ~~utility's net equity ratio below that adopted in the public utility's~~
29 ~~last general rate proceeding.~~

30 ~~(g) Whenever the commission authorizes a corporation or~~
31 ~~person to hold a controlling interest in an electrical corporation or~~
32 ~~gas corporation, a condition of that authorization is that the~~
33 ~~dividend policy of the public utility shall continue to be set by the~~
34 ~~public utility's board of directors, as though the public utility were~~
35 ~~a comparable stand-alone electrical corporation or gas~~
36 ~~corporation.~~

37 ~~SEC. 2. The addition of subdivisions (a), (b), (c) and (d) to~~
38 ~~Section 854.5 of the Public Utilities Code by Section 1 of this act~~

1 ~~do not constitute a change in, but are declaratory of, existing law.~~
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